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Notice of Allowability	Application No.	Applicant(s)	
	10/081,027	KERNS ET AL.	
	Examiner	Art Unit	
	John L. Sotomayor	3714	

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 12/23/2004.
2. ☒ The allowed claim(s) is/are 24 and 26-30.
3. ☒ The drawings filed on 30 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Bunker on March 17, 2005.

The application has been amended as follows:

1. Claim 24 is replaced by the following claim:

A method of nonverbal communication between a patient and a caregiver, the method comprising:

removably securing a laser to an article worn by the patient, the laser being coupled to a power supply and an on/off switch,

providing a plurality of charts at a location remote from, but within view of the patient, each chart comprising a plurality of both alphanumeric and graphical images permanently printed thereon, wherein the charts do not require electrical power to retain the images, wherein the graphical images are selected to represent at least one concept selected from the group consisting of: pain, discomfort, emotion, personal grooming requests and information relating to a medical condition of the personal grooming requests and information relating to a medical condition of the patient, wherein the images are grouped according to said concept, and wherein a plurality of images indicating related concepts are located adjacent one another on the chart;

placing the charts within view of both the patient and the caregiver;

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activating the laser by operating the switch;

selecting a first chart and a first image and aiming a laser beam emitted from said laser at the first image on the first chart, thereby causing a visible laser image to impinge on the chart on or adjacent to the first image;

selecting a second image on the first chart and aiming the laser beam at the second image, thereby causing a visible laser image to impinge on the chart on or adjacent to the second image;

allowing the caregiver to view the chart, the first image and the second image illuminated by the patient,

wherein a sequence of selecting the first image and the second image facilitates communication of a concept to the caregiver.

2. Claim 25 is cancelled.
3. In claim 26, line 1, replace – 25 – with “24”.
4. Replace title with “Nonverbal Communication Device and Method.”

The following is an examiner's statement of reasons for allowance: The prior art does not teach or suggest a method of nonverbal communication between a patient and a caregiver using a laser device attached to the patient, in which the user points to a first image followed by a second image on a chart displaying images detailing concepts a patient wishes to communicate, said chart within the view of a caregiver, the two images used to communicate a concept from the patient to the caregiver.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 571-272-4456. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jls
March 18, 2005

Chanda L. Harris
CHANDA L. HARRIS
PRIMARY EXAMINER